

BRAIN INJURY RIGHTS GROUP

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August 23, 2022

VIA ECF

Hon. Gregory H. Woods
United States District Judge
Hon. Stewart D. Aaron
United States Magistrate Judge
Southern District of New York
500 Pearl Street
New York, N.Y. 10007

Re: **Stipulations of Voluntary Dismissal–Status Letter**
U.S. ex rel. Donohue v. Carranza, et al.: Stipulation for Voluntary Dismissal
Case No.: 20-cv-05396

Dear Judges Woods and Aaron,

The undersigned represents the Plaintiff-Relator in this matter. Recently, the Plaintiff-Relator agreed to execute Voluntary Stipulations of Dismissal with respect to the California Defendants and to particular claims asserted against the New York Defendants.

During the course of this litigation, counsel for the L.A. Defendants advised the undersigned that under California Law, this action could not be maintained against their clients. Counsel provided the undersigned with the relevant authority supporting the Defendants' position. The undersigned reviewed the authority provided by the L.A. Defendants and advised the Plaintiff-Relator of the Defendants' position. Only recently was the undersigned given the permission and authority to execute a Stipulation of Voluntary Dismissal.

Once I received such authority, I sent a draft Stipulation to counsel for the L.A. and San Diego Defendants, agreeing to dismiss all claims against their clients. More specifically, the Plaintiff-Relator agreed to dismiss all claims against the following:

- Defendants Austin Beutner, in his official capacity as Superintendent and the Los Angeles Unified School District ("L.A. Defendants"), and
- Defendants Lamont A. Jackson, in his official capacity as Superintendent; Cindy Marten, in her official capacity as former Superintendent; and the San Diego Unified School District ("San Diego Defendants").

It was also brought to the undersigned's attention that the Plaintiff-Relator's claims against the New York Defendants could not be maintained under New York State Law. As a result, the undersigned drafted a Voluntary Stipulation of Dismissal regarding the New York

State claims against the Defendants Buffalo Public School District, and Kriner Cash, in his official capacity as Superintendent ("Buffalo Defendants") (Claims 5, 7-10).

Likewise, the Plaintiff-Relator agreed to execute a Voluntary Stipulation of Dismissal against Defendants Richard Carranza, in his official capacity as the former Chancellor of the New York City Department of Education; Meisha Porter, in her official capacity as the current Chancellor of the New York City Department of Education; and the New York City Department of Education ("NYC Defendants") (Claims 5-10).¹ A Stipulation of Voluntary Dismissal was also drafted and sent to counsel for these Defendants.

After the Plaintiff-Relator forwarded draft copies of the Stipulation to Defendants' counsel as set forth above, it was brought to the undersigned's attention that, per the Court's Order dated April 5, 2021, the Plaintiff-Relator must obtain the written consent of the United States and the States before seeking Court approval for the voluntary dismissal of any claims or Defendants in this case.

Plaintiff-Relator has started to seek this written consent, which may take some time to secure. If it is acceptable to the Court, the Plaintiff-Relator will file each respective Voluntary Stipulation of Dismissal with a letter regarding the appropriate written consent, as we receive the same.

In the meantime, the various Defendants herein have moved to dismiss the Plaintiff-Relator's Second Amended Complaint. The Plaintiff-Relator has responded to various Defendants' motions and those portions of the Buffalo and NYC Defendants' motions pertaining to the federal portion(s) of the Plaintiff-Relator's claims.

In light of the Plaintiff-Relator's agreement to execute Voluntary Stipulations of Dismissal, the Plaintiff-Relator has not responded to the motions filed by the San Diego and Los Angeles Defendants.²

As there are motions to dismiss pending before the Court, this letter is intended to inform the Court that the Plaintiff-Relator is taking the required steps to dismiss the Defendants and claims as stated above.

The Plaintiff-Relator thanks the Court for its consideration and attention to this matter.

Respectfully submitted,

Rory J. Bellantoni

Rory J. Bellantoni, Esq. (RB 2901)

¹ Plaintiff-Relator also seeks to dismiss the New York State claims against Defendants the Niagara Falls Public School District; and Mark Laurrie, in his official capacity as Superintendent (Claims 5, 7-10). No attorney has entered an appearance for these Defendants.

² The Plaintiff-Relator has advised the California Defendants that a Voluntary Stipulation of Dismissal as to all claims is agreed to. Similarly, the Plaintiff-Relator has advised the New York Defendants that a Voluntary Stipulation of Dismissal with respect to all New York State and New York City Claims is agreed to.

VIA ECF

All Counsel of Record